

## Message Text

UNCLASSIFIED

PAGE 01 STATE 004868

66

ORIGIN ERDA-07

INFO OCT-01 EUR-12 ISO-00 OES-05 L-03 /028 R

DRAFTED BY USERDA:OIPi:BMA:SGRIFFITH

APPROVED BY OES/NET:DBHOYLE

USERDA:OIPi:BMA:GFHELFRICH

L/OES:RBETTAUER

EUR/CE:RCASAGRANDE/DKURZE

EUR/RPE:DSWARTZ

----- 025343

P 082300Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY BONN PRIORITY

INFO USMISSION EC BRUSSELS PRIORITY

UNCLAS STATE 004868

E.O. 11652: N/A

TAGS: TECH

SUBJECT: ERDA/FMRT FAST BREEDER AGREEMENT

REF: BONN 19601; BONN 18466

1. CONCERNING FORMULATION TO BE USED IN AGREEMENT ARTICLE ON PATENTS, PHRASES QUOTE INVENTION AND DISCOVERY UNQUOTE AND QUOTE MADE OR CONCEIVED UNQUOTE COME DIRECTLY FROM SECTION 152 OF US ATOMIC ENERGY ACT AND FOR THIS REASON SHOULD NOT BE DELETED.

2. FMRT CONCERN WITH WORD QUOTE DISCOVERY UNQUOTE MAY BE BASED ON FACT THAT UNDER MOST PATENT SYSTEMS A SCIENTIFIC DISCOVERY OR BASIC LAW OF NATURE IS NOT PATENTABLE. HOWEVER, USE OF WORD QUOTE DISCOVERY UNQUOTE IN CONTEXT OF PROPOSED AGREEMENT SHOULD BE CONSTRUED AS APPLYING MORE NARROWLY THAN THE BROAD CONCEPT OF A SCIENTIFIC DISCOVERY FOR WHICH PATENTS CANNOT BE OBTAINED.

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 004868

3. IN US LAW, WORD QUOTE CONCEIVED UNQUOTE IS MEANT TO

COVER THE MENTAL CONCEPTION OF AN INVENTION, WHILE WORD QUOTE MADE UNQUOTE IS MORE GENERIC AND INCLUDES CONCEPT OF ACTUAL REDUCTION TO PRACTICE. ACCORDINGLY, BOTH TERMS ARE NECESSARY IN ORDER TO DEFINE A MENTAL CONCEPTION AS WELL AS A PHYSICAL REDUCTION TO PRACTICE. IN ADDITION, BOTH TERMS ARE REQUIRED BY OUR STATUTE.

4. CONCERNING EUROPEAN PATENT PROBLEM, FMRT'S PROPOSED MODIFICATION TO PATENTS ARTICLE, PARA 1, SUBPARA A, WOULD GIVE FRG RIGHT TO CLAIM FOR ITSELF EUROPEAN COMMUNITY PATENTS. THIS WOULD BE A SUBSTANTIAL MODIFICATION OF RIGHTS ORIGINALLY PROPOSED IN THIS AGREEMENT. THE LANGUAGE WOULD PROVIDE THAT FRG WOULD OWN RIGHTS IN ALL COUNTRIES OF THE EUROPEAN COMMUNITIES RATHER THAN ONLY IN THE FRG. THIS WOULD REPRESENT A SUBSTANTIAL DEVIATION FROM ALL ERDA INTERNATIONAL AGREEMENTS AND IS NOT ACCEPTABLE.

5. FURTHER, PARA 1 (D) OF PATENTS ARTICLE WAS INSERTED IN THIS AGREEMENT, ANWELL AS IN PREVIOUS FRG AGREEMENTS, TO RECOGNIZE THAT AFTER THE EUROPEAN PATENT CONVENTIONS COME INTO FORCE, SOME MODIFICATION OF THE PATENTS ARTICLE MAY BE NECESSARY. HOWEVER, PARA 1(D) STATES THAT QUOTE EQUIVALENT UNQUOTE RIGHTS SHOULD BE RETAINED AS PRESENTLY SET FORTH IN PARAS 1 (A) AND 1(B) UNDER THE PATENTS ARTICLE.

6. EMBASSY REQUESTED TO ATTEMPT TO GAIN FRG ACQUIESCENCE IN ERDA POSITION STATED ABOVE, IN VIEW OF FMRT APPARENT WILLINGNESS TO DO SO AS DESCRIBED IN PARA 3 OF BONN 19601. LATEST ERDA DRAFT OF AGREEMENT BEING POUCHED.

7. REGRET UNABLE TO LOCATE ENGLISH AND GERMAN LANGUAGE VERSIONS OF DRAFT AGREEMENT DESCRIBED PARA 6, BONN 18466. EMBASSY REQUESTED TO AIR POUCH DUPLICATE COPIES ASAP. ADDRESS TO S. M. GRIFFITH, USERDA:IS:OIP:BMA, 7TH FLOOR, 20 MASSACSHUSETTS AVENUE, WASHINGTON, D.C. 20545. KISSINGER

UNCLASSIFIED

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENT DRAFT, NUCLEAR AGREEMENTS, NUCLEAR REACTORS, INVENTIONS, PATENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 08 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976STATE004868  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** OIPI:BMA:SGRIFFITH  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760007-0543  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760174/aaaacoaq.tel  
**Line Count:** 98  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN ERDA  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:** n/a  
**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 BONN 19601, 75 BONN 18466  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** castelsl  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 29 JUN 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <29 JUN 2004 by barnescd>; APPROVED <20 AUG 2004 by castelsl>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** ERDA/FMRT FAST BREEDER AGREEMENT  
**TAGS:** TECH, US, GE, ERDA  
**To:** BONN  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006